

Message Text

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ACTION TRSE-00

INFO OCT-01 EUR-12 ISO-00 SSO-00 NSCE-00 USIE-00
INRE-00 AID-05 CEA-01 CIAE-00 COME-00 EB-07 EA-09
FRB-01 INR-07 IO-14 NEA-10 NSAE-00 OPIC-06 SP-02
LAB-04 EPG-02 SIL-01 AGRE-00 OMB-01 SS-15 NSC-05
PA-02 PRS-01 STR-04 /110 W
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FM AMEMBASSY PARIS
TO SECSTATE WASHDC IMMEDIATE 5322

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USOECD

FOR TREASURY FOR LAITIN FROM WOODWORTH

E.O. 11652: N/A
TAGS: EFIN, ETRD, OECD
SUBJECT: STATEMENT BY ASSISTANT SECRETARY WOODWORTH
ON EXPORT TAXES AND BORDER TAX ADJUSTMENT PROCEDURES

1. PARA 2 BELOW TRANSMITS TEXT OF STATEMENT I MADE
AT TODAY'S SESSION OF OECD'S COMMITTEE ON FISCAL
AFFAIRS. I HAVE ASKED THE US MISSION HERE TO
RELEASE THE TEXT AT NOON TOMORROW, JULY 8, IN THE
ABSENCE OF CONTRARY ADVICE FROM YOU.

2. BEGIN TEXT

STATEMENT OF ASSISTANT SECRETARY OF THE UNITED STATES
TREASURY DEPARTMENT, LAURENCE N. WOODWORTH, BEFORE
THE COMMITTEE ON FISCAL AFFAIRS OF THE ORGANIZATION
FOR ECONOMIC COOPERATION AND DEVELOPMENT
ON EXPORT TAXATION AND BORDER TAX
ADJUSTMENT PRACTICES

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JULY 7, 1977
PARIS, FRANCE

(BEGIN UNDERSCORE) INTRODUCTION (END UNDERSCORE)

I AM VERY PLEASED TO BE HERE TODAY AND TO

ATTEND MY FIRST MEETING OF THE OECD COMMITTEE ON FISCAL AFFAIRS. I WOULD LIKE TO TAKE THIS OPPORTUNITY TO REVIEW TWO RECENT DEVELOPMENTS RELATING TO THE IMPACT OF TAXES ON INTERNATIONAL TRADE: THE REPORTS OF THE GATT PANELS ON EXPORT TAXATION AND THE ACTUAL AND PENDING COURT DECISIONS WITH RESPECT TO BORDER TAXES AND COUNTERVAILING DUTIES IN THE UNITED STATES.

(BEGIN UNDERSCORE) GATT REPORTS (END UNDERSCORE)

LAST NOVEMBER A GROUP OF FOUR IDENTICAL PANELS CONVENED BY THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT) COUNCIL ISSUED REPORTS DECLARING THE UNITED STATES DOMESTIC INTERNATIONAL SALES CORPORATION (DISC) LEGISLATION AND THE EXPORT TAXATION PRACTICES OF BELGIUM, FRANCE, AND THE NETHERLANDS TO BE ILLEGAL EXPORT SUBSIDIES. THE PANELS THUS ACCEPTED THE ARGUMENT SET FORTH BY THE UNITED STATES THAT IF THE DISC SHOULD BE FOUND TO BE IN VIOLATION OF GATT, THEN THE TAX PRACTICES OF BELGIUM, FRANCE, AND THE NETHERLANDS WITH RESPECT TO THE TAXATION OF EXPORTS ALSO VIOLATED GATT. THE FINDINGS OF THE GATT PANELS HAVE FAR REACHING IMPLICATIONS. THE EXPORT TAX PRACTICES OF SOME OF THE WORLD'S PRINCIPAL TRADING COUNTRIES HAVE BEEN FOUND TO BE IN VIOLATION OF GATT. MOREOVER, SIMILAR TAX PRACTICES OF A LARGE NUMBER OF UNCLASSIFIED

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OTHER COUNTRIES THAT WERE NOT PARTIES TO THE GATT PROCEEDING WOULD APPEAR, BY IMPLICATION, ALSO TO BE IN VIOLATION OF GATT.

THE UNITED STATES TAKES ITS GATT OBLIGATIONS, AND THE FINDINGS OF THE PANELS, VERY SERIOUSLY. AN IMPORTANT AND NECESSARY FIRST STEP IN THE RESOLUTION OF THE ISSUES ASSOCIATED WITH THESE FINDINGS IS THE ACCEPTANCE OF THE PANELS' REPORTS BY THE GATT COUNCIL. THE UNITED STATES BELIEVES, SINCE THE PANELS HAD IDENTICAL MEMBERSHIP, WERE SET UP AT THE SAME TIME, ANALYZED SIMILAR ISSUES, AND ISSUED THEIR REPORTS

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SIMULTANEOUSLY, THAT THE GATT COUNCIL SHOULD ADOPT ALL FOUR REPORTS AS A GROUP. WE BELIEVE THAT THIS WILL FACILITATE A COMPREHENSIVE REVIEW AND STUDY OF ALL THE ISSUES RAISED BY THE REPORTS. BELGIUM, FRANCE, AND NETHERLANDS HAVE BEEN UNWILLING FOR THE GATT COUNCIL TO ADOPT THE REPORTS FINDING THEM IN VIOLATION OF GATT. WE WOULD URGE THESE COUNTRIES TO RECONSIDER THEIR POSITION SO THAT THE WAY CAN BE CLEARED FOR ADOPTION OF ALL FOUR REPORTS.

ONCE THIS PROCEDURAL BARRIER HAS BEEN OVERCOME, WE HOPE THAT THE OTHER COUNTRIES WILL JOIN US IN REVIEWING THE INTERNATIONAL RULES AFFECTING DIRECT AND INDIRECT EXPORT SUBSIDIES. THE UNITED STATES HAS COME TO THE REALIZATION THAT MORE FLEXIBLE EXCHANGE RATES HAVE REDUCED THE BENEFIT OF PROGRAMS OF THIS TYPE. AS PART OF ITS TAX REFORM PACKAGE, FOR EXAMPLE, THE CARTER ADMINISTRATION IS CONSIDERING RECOMMENDING TO CONGRESS THAT THE DISC LEGISLATION BE REPEALED. IN MAKING THIS DECISION, WE MUST WEIGH THE DOMESTIC COSTS OF DISC AGAINST THE NEED TO ACHIEVE A SATISFACTORY
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MULTILATERAL RESOLUTION OF INTERNATIONAL TRADE ISSUES.

(BEGIN UNDERSCORE) BORDER TAX ADJUSTMENTS: ZENITH,
STEEL, TRADE ACT (END UNDERSCORE)

A SECOND MAJOR DEVELOPMENT IN THE TAXES AND TRADE AREA WAS THE RECENT DECISION OF THE UNITED STATES

CUSTOM COURT, IN A CASE BROUGHT BY THE ZENITH RADIO CORPORATION, THAT THE REMISSION AND ABATEMENT OF CONSUMPTION TAXES BY THE JAPANESE GOVERNMENT UNDER COMMODITY TAX LAW NUMBER 48 CONSTITUTES A BOUNTY OR GRANT WITHIN THE MEANING OF THE UNITED STATES COUNTERVAILING DUTY LAW. THE UNITED STATES TREASURY DEPARTMENT HAS TRADITIONALLY HELD THAT REBATES OF INDIRECT OR CONSUMPTION TAXES ARE NOT BOUNTIES OR GRANTS UNDER THE TERMS OF THE COUNTERVAILING DUTY STATUTE. THIS VIEW IS OF COURSE CONSISTENT WITH THE CURRENT BORDER TAX ADJUSTMENT RULES SET FORTH IN THE GATT WHICH ALLOW INDIRECT TAXES TO BE REBATED ON EXPORTS AND LEVIED ON IMPORTS.

THE UNITED STATES UNDERSTANDS THE CONCERN OF ITS TRADING PARTNERS WITH REGARD TO THE ZENITH CASE. WE ALSO UNDERSTAND THAT OTHER COUNTRIES MIGHT CONSIDER THAT THE LEVYING OF COUNTERVAILING DUTIES AGAINST THE REBATE OF INDIRECT TAXES WOULD BE INCONSISTENT WITH ARTICLES VI AND XVI OF GATT. ACCORDINGLY, WE ARE VIGOROUSLY PURSUING A REVERSAL OF THE CUSTOMS COURT DECISION IN THE HIGHER COURTS.

IN A CASE INVOLVING SOMEWHAT SIMILAR ISSUES, THE UNITED STATES CUSTOMS COURT HAS BEFORE IT A PETITION FILED BY THE U.S. STEEL CORPORATION REQUESTING THAT THE REBATES OF SOME OF THE EUROPEAN VALUE ADDED TAXES BE UNCLASSIFIED

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DECLARED BOUNTIES OR GRANTS UNDER THE COUNTERVAILING DUTY STATUTE. THE UNITED STATES TREASURY DEPARTMENT ALSO IS OPPOSING THIS PETITION.

WE ARE HOPEFUL THAT THE JUDICIAL PROCESS WILL EVENTUALLY REAFFIRM THE TREASURY DEPARTMENT POSITION THAT REBATES OF INDIRECT TAXES, SUCH AS THE JAPANESE COMMODITY TAX OR THE EUROPEAN VALUE ADDED TAXES, ARE NOT BOUNTIES OR GRANTS. IF THIS POSITION IS NOT UPHELD BY THE COURTS, WE WOULD THEN CONSIDER ASKING CONGRESS TO AMEND THE COUNTERVAILING DUTY STATUTE TO DECLARE THAT REBATES OF INDIRECT TAXES ARE NOT BOUNTIES OR GRANTS. THE PROSPECTS FOR SUCH LEGISLATION WILL BE GREATLY ENHANCED IF THERE ARE SIGNS OF CONCRETE PROGRESS ON IMPROVING THE INTERNATIONAL RULES ON SUBSIDIES.

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